

**IN THE UNITED STATES DISTRICT COURT  
FOR THE EASTERN DISTRICT OF VIRGINIA  
Norfolk Division**

**CSX TRANSPORTATION, INC.,  
individually and on behalf of  
NORFOLK AND PORTSMOUTH BELT LINE  
RAILROAD COMPANY,**

**Plaintiff,**

**v.**

**Civil Action No. 2:18-cv-530-MSD-LRL**

**NORFOLK SOUTHERN RAILWAY COMPANY, *et al.*,**

**Defendants.**

**MEMORANDUM IN SUPPORT OF NPBL's MOTION TO SEAL**

Defendant Norfolk and Portsmouth Belt Line Railroad Company, by counsel, states as follows in support of its motion to seal Exhibits A, B, D, G, and H to the memorandum in support of its motion to compel (being filed concurrently herewith), as well as references to the exhibits in the body of the memorandum in support (collectively, the "Confidential Material").

- Exhibit A is Plaintiff's objections and responses to the Belt Line's first interrogatories and requests for admission;
- Exhibit B is correspondence from plaintiff's counsel dated July 13, 2020 containing references to and descriptions of documents marked by Plaintiff as confidential;
- Exhibit D is a collection of documents marked by Plaintiff as confidential and/or attorneys' eyes only;
- Exhibit G is Plaintiff's second supplemental answers to the Belt Line's first interrogatories; and
- Exhibit H is a collection of supplemental documents marked by Plaintiff as confidential and/or attorneys' eyes only.

There are three requirements for sealing court filings: (1) public notice with opportunity to object; (2) consideration of less drastic alternatives; and (3) a statement of specific findings in support of a decision to seal and reject alternatives to sealing. *Flexible Benefits Council v. Feldman*, No. 1:08-CV-371, 2008 U.S. Dist. LEXIS 93039 (E.D. Va. Nov. 13, 2008) (citing *Ashcraft v. Conoco, Inc.*, 218 F.3d 282, 288 (4th Cir. 2000)). Even when no party challenges a motion to seal, the Court must still ensure the motion is supported by good cause. *Auburn Univ. v. IBM Corp.*, No. 3:0-cv-694-MEF, unpublished, 2010 WL 3927737 (M.D. Ala. Oct. 4, 2010).

The Stipulated Protective Order entered on October 29, 2019 requires the Belt Line to file a motion to have the Confidential Material filed under seal. *See* D.E. 79. CSXT designated the Confidential Material as “confidential” and “attorneys’ eyes only.” By so designating the Confidential Material CSXT “believes in good faith” that the Confidential Material “must or may be protected from disclosure.” *Id.* at ¶ 2. Therefore, pursuant to paragraph 16 of the Stipulated Protective Order, the Belt Line must seek to have the Confidential Material filed under seal: “Should any Receiving Party [the Belt Line] file any Confidential Material ... with the Court, that Party must file a separate and specific motion filing that material under seal....” *Id.* at ¶ 16.

Accordingly, the Belt Line requests that this Court grant it leave to file a copy of the Confidential Material under seal, with such version to remain sealed until further court order.

Dated: July 24, 2020

**NORFOLK AND PORTSMOUTH  
BELT LINE RAILROAD COMPANY**

By: /s/ W. Ryan Snow

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**CERTIFICATE OF SERVICE**

I certify that on this 24th day of July 2020, I electronically filed the foregoing with the Clerk of Court using the CM/ECF system, which will send a “Notice of Electronic Filing” to all counsel of record who have consented to electronic service.

By: /s/ W. Ryan Snow  
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